THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.6544 of 1999

Dated:26.12.2007

Between

Karvy Consultants Limited
A company incorporated under Companies Act, rep., by its Assistant Manager
M.Uma Maheshwar Reddy

..Petitioner

and

1.The Presiding Officer, Labour Court, Hyderabad and others.

…Respondent

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.6544 of 1999

ORDER:

This writ petition is filed challenging the award made by the Labour Court-I, A.P., Hyderabad in I.D.No.123 of 1997 dated 1st December, 1998.

The petitioner is the Management. 2nd respondent is the workman. It appears that 2nd respondent filed an application before the Labour Court under Section 2-A (2) of the Industrial Disputes Act, 1947 (for short 'the Act'). It was his case that he was appointed as Electrician in the petitioner-institution with effect from 27.7.1984. The employees of the petitioner-institution formed into a union and ever since, the Management began to harass them. Further, they have submitted a Charter of Demands in the month of August, 1996

and the Management called the office bearers of the Union on 15.11.1996 and informed that they are not agreeable for the same, and they would disclose their policy in General Body Meeting. Accordingly, on 16.11.1996 at about 12-00 noon, a General Body Meeting of all the employees was called for and the Chairman & Managing Director addressed the meeting. The employees were not happy with the issues raised by him. They raised protests after conclusion of the meeting. Taking advantage of the situation, the Management started issuing charge sheets. The charge framed against the respondent-workman was as under:

> "that on 19.12.1996 you had threatened Mr.G.Hari Kumar and Mr.P.Prasad, Office Boys of CMD's Secretariat by saying why did you sign as a witness on the suspension order given to Mr B.J.Dhanunjaya Kumar, I do not like it and I will see your end."

The workman was placed under suspension on 21.12.1996. Thereafter, a farce of enquiry was conducted and the Enquiry Officer submitted report holding that the workman was guilty of the charge.

Subsequently, the disciplinary authority imposed a penalty of dismissal from service against the workman. Aggrieved by the same, the workman filed an application under Section 2-A (2) of the ID Act. The management filed a detailed counter denying the allegations made by the workman and stated that the charge was grave in nature and for the purpose of maintaining discipline in the institution, there was no way except to remove the workman from service.

Before the Labour Court, no oral evidence was let in by either of the parties. However, on behalf of workman, Exs.W1 to W3 were marked and on behalf of the Management Exs.M1 to M8 were marked.

After a detailed consideration of the entire material placed placed before it, the Labour Court held that the domestic enquiry conducted by the Management was valid and the charge framed against the workman was proved, but, however, held that the charge was very trivial in its nature and imposing the punishment of penalty of dismissal

from service is shockingly disproportionate to that of the misconduct alleged and a mere warning was sufficient and under those circumstances, directed the Management to reinstate the workman into service with full back wages, continuity of service and other attendant benefits. Aggrieved by the same, the present writ petition is filed by the Management.

Learned counsel for the petitioner contended that the Labour Court having held that the domestic enquiry conducted by the Management was valid and the charge was proved, would not have taken up the issue of proportionality of punishment on the workman. It is always open for the Management to impose a harsh punishment of this nature in view of the fact that the workman was creating disharmony in place of work and he has threatened with dire consequences. Whereas, learned counsel for the respondent supported the award passed by the Labour Court and has stated that the Labour Court has rightly come to the conclusion that the charge levelled against the workman was trivial in its

nature, as such he was entitled for all the benefits such as reinstatement, continuity of service, full back wages etc and therefore, the award passed by the labour Court does not call for any interference by this Court under Article 226 of the Constitution of India.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the impugned award and other material available on record.

I am in complete agreement with the submissions made by the learned counsel for the petitioner that once the Labour Court has come to the conclusion that the domestic enquiry conducted by the Management was valid and the charge was proved, it is not open for it to consider the issue regarding proportionality of punishment. May be, the charge was trivial in its nature and the punishment was shockingly disproportionate to that of the misconduct alleged, but that does not mean that the workman is entitled for all the benefits without any punishment.

In the facts and circumstances of the case and to meet the ends of justice, I am of the opinion that awarding of back wages to the respondent-workman is not called for, particularly when there is no reasoning as to awarding of full back wages, apart from the fact that the workman cannot go scot free, without imposing any punishment. Merely because the fact that the finding recorded by the Labour Court that the punishment is shockingly disproportionate to that of the misconduct alleged itself would not prevent the Court from imposing some punishment against the workman.

Under those circumstances, the award passed by the Labour Court is modified to the following extent.

"In the result, the workman is entitled for reinstatement with continuity of service and other attendant benefits, but without any back wages."

With the above modification of the impugned Award, the writ petition is disposed of. No costs.

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26-12-2007

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